



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1993

Ms. Karen Hendershot Bailey
Assistant City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR93-716

Dear Ms. Bailey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code.¹ Your request was assigned ID# 22532.

The City of Victoria Police Department (the "department") has received a request for information concerning a report of child abuse. You contend the requested information is excepted from required public disclosure under section 552.101 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You claim that section 34.08 of the Family Code, incorporated into section 552.101 of the Government Code, makes the requested information confidential. Section 34.08 of the Family Code provides:

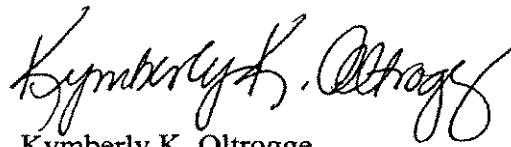
(a) Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

¹We note that the Seventy-Third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

Subsections (b) and (c) do not apply in this instance.² Unless the department has adopted regulations consistent with the purposes of the Family Code to allow access by the legal guardian of the subject of an investigation made under chapter 34 of the Family Code, the department must withhold the requested information under section 552.101 of the Government Code as information made confidential by law.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kymberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/LBC/rho

Ref.: ID# 22532

Enclosures: Submitted documents

cc: Ms. Mary Lou Arguelles
801 Crestview Dr.
Victoria, Texas 77901
(w/o enclosures)

²Subsection (b) provides access to the information held confidential under subsection (a) by an adult who was the subject of such information or by the adoptive parents of a child who was the subject of such information. Subsection (c) requires that prior to placing a child who was the subject of an investigation under chapter 34 of the Family Code with prospective adoptive parents, the adoptive parents must be advised of their right to inspect the file regarding the investigation.